



NOTICES OF FINAL RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor's Regulatory Review Council or the Attorney General's Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and

text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the Arizona Administrative Code.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 9. GOVERNING COMMITTEE FOR TAX DEFERRED ANNUITY AND DEFERRED COMPENSATION PLANS

[R19-64]

PREAMBLE

1. **Article, Part, or Section Affected (as applicable)**
R2-9-101 **Rulemaking Action**
Repeal
2. **Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. § 38-871(C)(3)
Implementing statutes: A.R.S. §§ 38-871 et seq.
3. **The effective date for the rules:**
June 2, 2019
 - a. **If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
Not applicable
 - b. **If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
Not applicable
4. **Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**
Notice of Rulemaking Docket Opening: 25 A.A.R. 107, January 11, 2019
Notice of Proposed Rulemaking: 25 A.A.R. 91, January 11, 2019
5. **The agency's contact person who can answer questions about the rulemaking:**
Name: Jessica A.R. Thomas, Rules Writer
Address: Arizona State Retirement System
3300 N. Central Ave., Suite 1400
Phoenix, AZ 85012-0250
Telephone: (602) 240-2039
E-mail: JessicaT@azasrs.gov
6. **An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
The Committee needs to repeal R2-9-101 in order to reduce regulatory burden. R2-9-101 identifies obligations for a vendor who is contracted to administer the deferred compensation programs governed by the Committee. However, the Committee has the statutory authority to contract for such specific administrative services and may include prudent requirements in the contract, rather than promulgating separate rules. Thus, the rule is unnecessary and repealing the rule will reduce the regulatory burden on the contracted vendor while still achieving the same regulatory objective.
7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
No study was reviewed.
8. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable

9. **A summary of the economic, small business, and consumer impact:**
There is little to no economic, small business, or consumer impact, other than the minimal cost to the Committee to prepare the rule package. The rule will have minimal economic impact, if any, because it reduces regulatory burden while still achieving the same regulatory objective. Thus, the economic impact is minimized.
10. **A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**
None
11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**
The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on February 12, 2019.
12. **All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**
None
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
The rules do not require a permit.
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
Federal law applies to retirement programs, but no federal law specifically applies to this rulemaking.
 - c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**
No analysis was submitted.
13. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**
No materials are incorporated by reference.
14. **Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**
Not applicable
15. **The full text of the rules follows:**

TITLE 2. ADMINISTRATION
CHAPTER 9. GOVERNING COMMITTEE FOR TAX DEFERRED ANNUITY
AND DEFERRED COMPENSATION PLANS

ARTICLE 1. GENERAL PROVISIONS

Section
R2-9-101. Employee Solicitation for Tax-Deferred Annuities and Deferred Compensation Plans Repealed

ARTICLE 1. GENERAL PROVISIONS

R2-9-101. Employee Solicitation for Tax-Deferred Annuities and Deferred Compensation Plans Repealed

- A.** The administrator under contract with the Governing Committee shall draft and present an annual business plan that describes its approach to educating and marketing to employees regarding the tax-deferred annuity and deferred compensation plans. The administrator's business plan is subject to the approval of the Governing Committee. The business plan shall include:
1. Enrollment and participation goals for employees;
 2. Performance measures for the administrator;
 3. Plans for achieving the goals and performance measures;
 4. An explanation of the effect of participation on take-home pay and future retirement income; and
 5. Information regarding retirement planning and investment options.
- B.** The administrator shall establish and follow written procedures that provide for the impartial representation of the available investment options and investment products offered under the tax-deferred annuity and deferred compensation plans. The written procedures are subject to the advance written approval of the Governing Committee. The procedures shall:
1. Include directives to the administrator's personnel that information provided to the employees shall be presented in a fair and equal manner, allowing employees to make individual choices based upon their specific investment needs or desires;
 2. Be adequate to ensure that the administrator's personnel will not engage in preferential solicitation of any investment option or investment product; and
 3. Include a means of monitoring at reasonable intervals the adequacy of the procedures and reporting the results of the monitoring to the Governing Committee.
- C.** The failure of the administrator to present the plan required in subsection (A), or the failure of the administrator to establish and follow the procedures required in subsection (B), is a breach of its contract with the Governing Committee.